

UNITED STATES DISTRICT COURT

WESTERN

for the
DISTRICT OF

OKLAHOMA

In the Matter of the Search of)

(Briefly describe the property to be search)

Or identify the person by name and address)

PROPERTY KNOWN AS:)

Deoxyribonucleic Acid (DNA))

IN THE POSSESSION OF:)

Patrick McHenry)

SSN: XXX-XX-4831)

DOB: XX-XX-1993)

Case No: M-21-701-P

FILED
DEC 14 2021
CARMELITA REEDER SHINN, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY RS DEPUTY

APPLICATION FOR SEARCH WARRANT

I, a federal law enforcement officer or attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person (*identify the person or describe property to be searched and give its location*):

See Attachment A, which is attached and incorporated by reference.

Located in the Western District of Oklahoma, there is now concealed (*identify the person or describe the property to be seized*):

See Attachment B, which is attached and incorporated by reference.

The basis for the search under Fed. R. Crim.P.41(c) is (*check one or more*):

- ☒ evidence of the crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☐ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section

Offense Description

18 U.S.C. §§ 113 and 1152

Assault in Indian Country

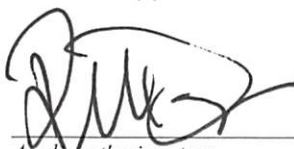
The application is based on these facts:

See attached Affidavit of Special Agent Thomas Sparks, Federal Bureau of Investigation, which is incorporated by reference herein.

☒ Continued on the attached sheet(s).

☐ Delayed notice of _____ days (*give exact ending date if more than 30 days*) is requested under 18

U.S.C. § 3103a, the basis of which is set forth on the attached sheet(s).



Applicant's signature

REBECCA DAVISON

Special Agent

Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)

Sworn to before me and signed in my presence.

Date: 12/14/21

City and State: Oklahoma City, Oklahoma



Judge's signature
GARY M. PURCELL, U.S. Magistrate Judge

Printed name and title

ATTACHMENT A

Description of Person to be Searched

Patrick Wayne MCHENRY

Patrick Wayne MCHENRY is a black male, born on July 12, 1993, is approximately 6'01" tall, weighing approximately 250 pounds. SSN: XXX-XX-4831. MCHENRY is currently in custody at the CoreCivic Cimarron Correctional Facility, located at 3200 S. Kings Highway, Cushing, Payne County, OK, Western District of Oklahoma.



Photograph of Patrick Wayne MCHENRY

Handwritten signature
R.D.

ATTACHMENT B

Evidence to be Seized

The evidence to be seized is the following evidence of violations of Title 18, U.S.C., §§ 113 and 1152, assault in Indian Country, committed on September 11, 2021, found within the body of Patrick Wayne MCHENRY:

1. Interior oral scrapings, to wit: buccal swabs, in order to compare the DNA profile of MCHENRY to any DNA profile which may be extracted from DNA swabs of the evidence seized in relation to the investigation of MCHENRY for commission of the subject offense.


D.T.

AFFIDAVIT IN SUPPORT OF A SEARCH WARRANT

I, Rebecca Davison, being duly sworn, deposes and states as follows:

INTRODUCTION AND INVESTIGATOR BACKGROUND

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) within the meaning of 18 U.S.C. §3051, and as such, am an officer of the United States who is authorized to investigate violations of the laws of the United States and to execute warrants issued under the authority of the United States. I have been employed with the ATF since December 2020. In 2021, I completed the required Criminal Investigator Training Program. I also completed the required ATF Special Agent Basic Training to be an ATF criminal investigator. My duties as an ATF Special Agent, include investigating criminal violations of federal firearms laws, federal explosives laws and federal narcotics laws.

2. The statements made in this affidavit are based in part on: (a) my personal participation in this investigation; (b) information provided to me by other law enforcement officers; and (c) my training and experience of other law enforcement agents and officers.

3. I submit this Affidavit, pursuant to Federal Rule of Criminal Procedure 41, in support of an application for buccal swab of the interior cheek area of the mouth of Patrick MCHENRY to obtain Deoxyribonucleic Acid ("DNA") evidence for microscopic comparison in relation to an ongoing investigation involving a violation of Title 18, U.S.C., §113 and 1152, assault in Indian Country.

PROBABLE CAUSE

4. On September 13, 2021, investigators responded to St. Francis Hospital in Muskogee, Oklahoma to take a report from victim B.N. At the hospital, B.N. stated that on September 11, 2021, she was picked up by Patrick Wayne MCHENRY, and taken to a residence

in Muskogee, Oklahoma. B.N. stated that once at the residence she was sexually assaulted, kicked, and punched by MCHENRY. While at the residence, she was also beaten by Ashton CLARK. B.N. stated that while she was detained by MCHENRY and CLARK, she observed them to be in possession of a sawed-off shotgun. B.N. stated that she was tied up with rope and forced into the trunk of the suspect vehicle. From there, B.N. stated that she was driven to a motel that she had been staying in Muskogee. Once at the motel, MCHENRY demanded to know what room B.N. had been staying in. B.N. identified the room and stated she had been staying with a male, C.J.

5. Investigators later made contact with C.J., who stated that he heard knocking at the motel door and when he answered, a black male and white female – consistent with the description of MCHENRY and CLARK – entered his motel room and robbed him of his personal belongings. C.J. stated that the male pointed a black handgun at him. C.J. also stated that offenders took the keys to his vehicle, a Subaru Outback.

6. B.N. further stated that at some point, she was moved from the trunk to the backseat of the suspect vehicle, a Honda Accord. She was ultimately transported to a residence in Braggs, Oklahoma, where she was detained in a shed. B.N. stated that while she was being driven around, and while she was at the Braggs property, she could hear MCHENRY and CLARK conversing with each other and others using cellphones. At some point, B.N. was gagged with a sock and had her mouth taped. B.N. was able to escape from the shed on September 13, 2021 and called 911.

7. While at the hospital, investigators observed tape and rope on B.N.'s wrists consistent with what she had related being bound with. At a search of the property and shed in

Braggs, investigators found items described by B.N. as being located in the shed, such a tarp and soda bottles.

8. On September 15, 2021, investigators located and arrested MCHENRY and CLARK at a motel in Tulsa.

9. On November 18, 2021, a federal search warrant was executed on the suspect vehicle, which was in a secure holding location since it's impoundment on September 13, 2021. Items of evidence were seized as well as samples to be examined for DNA.

10. Both MCHENRY and CLARK are convicted felons. CLARK and the victim, C.J., are both enrolled members of the Cherokee Nation. All of the locations above occurred in the Eastern District of Oklahoma and within Indian Country, namely, the Muscogee (Creek) Nation and the Cherokee Nation Reservations.

CONCLUSION

11. Based upon the foregoing, there is probable cause to believe that MCHENRY committed the Subject Offense and that DNA evidence of MCHENRY would provide evidence of the Subject Offense, specifically that DNA evidence belonging to MCHENRY would be on the seized items of evidence. This collection will allow for a comparison to determine if, in fact, the seized DNA evidence of MCHENRY was found on the evidence, and/or matches DNA evidence recovered from BN. I therefore request an order to obtain buccal swabs (see Attachment B) of the interior cheek area of the mouth of MCHENRY (Attachment A).

12. Based upon my training and experience, I am aware of instances where subjects have physically resisted the collection of DNA from their person. For this reason, I request that this warrant authorize that reasonable force be used, if necessary, to collect DNA buccal swabs from MCHENRY should he choose to resist.

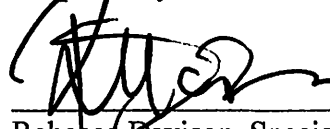
13. In taking the reference samples from MCHENRY, I anticipate the following procedures will be employed:

- a. Law enforcement agents will approach MCHENRY, present him with the search warrant, and request that he submit to the procedure described below. If he does not submit, only that force which is deemed reasonable and necessary will be employed to obtain the samples.
- b. To obtain buccal (inner cheek scraping) cell samples, cotton swabs will be placed inside of MCHENRY's mouth and rubbed against the inside of his cheeks to scrape cells containing DNA onto the tips of the swabs.

14. In the event MCHENRY refuses to voluntarily submit to the collection of the buccal cell as described above, he will be physically restrained, and buccal swabs will be extracted by law enforcement agents and/or medical personnel.

15. Wherefore, I respectfully request that this Court issue a search warrant for the body of MCHENRY as described in Attachment A and authorize the search and seizure of the items in Attachment B.

Respectfully Submitted,



Rebecca Davison, Special Agent
Bureau of Alcohol, Tobacco, Firearms, and
Explosives

Sworn before me December 14, 2021.



GARY M. PURCELL
UNITED STATES MAGISTRATE JUDGE
WESTERN DISTRICT OF OKLAHOMA

ATTACHMENT A

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Photograph of Patrick Wayne MCHENRY

R.D.
Jub

ATTACHMENT B

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R.T.D.
gmb